

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

December 10, 2024

**VIA ECF AND VIA EMAIL: Schofield\_NYSDChambers@nysd.uscourts.gov**  
The Honorable Lorna G. Schofield

**Re: *Stanan, Inc. v. Mt. Hawley Insurance Company and Renaissance Re Syndicate 1458  
Lloyds and Underwriters at Lloyds London, No. 1:24-cv-03975*  
Letter Motion for Pre-Motion Discovery Conference Regarding Privilege Issues**

Dear Judge Schofield:

Defendants submit this letter motion objecting to Plaintiff's assertion of privileges in response to third party subpoenas served on Hotel Development and Management Group, LLC ("HDG"), Plaintiff's third-party property manager, and Baldwin Group Southwest Inc. ("Baldwin" or "BKS"), Plaintiff's insurance broker. These issues are described in detail in the parties' Joint Letter on file herein [Doc. 61]. The privilege logs asserting the privileges are attached and reflect 156 withheld emails in HDG's possession and 71 withheld emails in Baldwin's possession. Only items 5, 7, 15, 18, 19, 22-36, 41, 44, 49-59, 62-71 from the Baldwin log remain at issue. All items on the HDG log are at issue. The disputed communications (emails) are in the possession of and have been sent and/or received by non-client third parties. Defendants request an order overruling the privileges asserted and ordering production of the documents.

**Law applicable to privilege analysis.**

"State law governs privilege regarding a claim or defense for which state law supplies the rule of decision." *Bonde v. Wexler & Kaufman, PLLC*, 345 F.R.D. 31, 43 (S.D.N.Y. 2023). (quoting Fed. R. Evid. 501). Thus, "[i]n diversity cases such as this, where state law governs the claims, the Court looks to state law for determining privilege." *Id.* (quoting *Kleeberg v. Eber*, 2019 WL 2085412, at \*6 (S.D.N.Y. May 13, 2019) (collecting cases)).

Plaintiff filed this action in this New York court pursuant to the mandatory venue provision contained in the Legal Action Conditions Endorsement included in the policy. [see Policy at Doc. 55-3 at 21] That same endorsement also states that "[a]ll matters arising hereunder including questions relating to the validity, interpretation, performance and enforcement of this Policy **shall be determined in accordance with the law and practice of the State of New York** (notwithstanding New York's conflicts of law rules).<sup>1</sup> Because New York law governs the claims in this case, New York law determines issues regarding the attorney client privilege.

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<sup>1</sup> The identical Mt. Hawley New York choice-of-law provision has consistently been enforced in this court. See e.g., *HKB Hospitality, LLC d/b/a Quality Inn Brownsville v. Mt. Hawley Insurance Company*, No. 1:23-cv-00372-JPO, 2024 WL 4349508 (S.D.N.Y. September 30, 2024); *Ram Krishana, Inc. v. Mt. Hawley Ins. Co.*, No. 1:22-CV-03803, 2024 WL 1657763, at \*3-4 (S.D.N.Y. Apr. 17, 2024); *CBKZZ Inv. LLC v. Mt. Hawley Ins. Co.*, No. 22-CV-10672 (AS), 2024 WL 728890, at \*1 (S.D.N.Y. Feb. 22, 2024).

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Respectfully submitted,

/s/ Greg K. Winslett

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**ATTORNEYS FOR DEFENDANTS  
MT. HAWLEY INSURANCE COMPANY AND  
RENAISSANCE RE SYNDICATE 1458  
LLOYD'S**

**Certificate of Conference**

On November 26, 2024, the undersigned conferred in good faith via telephone conference with counsel for Plaintiff in an effort to resolve the issues presented herein.

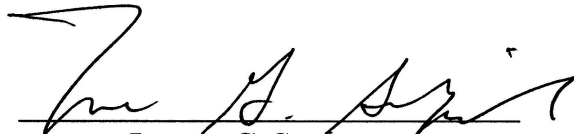
/s/ Richard L. Smith, Jr.

Richard L. Smith, Jr.

cc: All Counsel of Record ***Via ECF***

By **December 13, 2024**, Defendants shall file a letter selecting for in camera review 10 representative documents for which Plaintiff asserts privilege. By **December 18, 2024**, Plaintiff shall file a response to this pre-motion letter and, with respect to each of the 10 documents, shall explain (without divulging allegedly privileged information) the basis for the privilege, or shall withdraw the assertion of privilege. At the same time the letter is filed, Plaintiff shall email to the Court at Schofield\_NYSDChambers@nysd.uscourts.gov a courtesy copy of the response along with the 10 documents that Plaintiff still maintains are privileged for in camera review.

Dated: December 11, 2024  
New York, New York

  
**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**